

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	
A National Broadband Plan For Our Future	)	GN Docket No. 09-51

**Reply Comments Of Alaska Communications Systems Group, Inc.**

Alaska Communications Systems Group, Inc., on behalf of its operating subsidiaries (“ACS”),<sup>1</sup> hereby submits these reply comments in response to the Commission’s Further Notice of Proposed Rulemaking (“Further Notice”) issued in the above-captioned proceedings regarding the universal service contribution methodology.

In its comments, ACS argued that the Commission should simplify the current contribution mechanism by: (1) creating clear, general rules defining the contribution base, including rules that include all services that incorporate the provision of a telecommunications component; (2) retaining and simplifying the revenue-based contribution methodology by basing it on gross revenue calculations already required for corporate reporting purposes, with a safe harbor deduction permitted for services that are not subject to contribution obligations; (3) streamlining the contributions-related administrative processes by streamlining the Form 499-A, eliminating the Form 499-Q, adjusting the contribution factor once per year, and continuing to permit carriers to recover their universal service contribution costs through an explicit line item on customer bills.

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<sup>1</sup> In this proceeding Alaska Communications Systems Group, Inc. represents four local exchange carriers, ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc. (collectively, the “ACS ILECs”), as well as ACS Wireless, Inc., ACS Long Distance, Inc., ACS Internet, Inc., ACS Cable, Inc., Alaska Fiber Star, and WCI Cable (collectively, together with the ACS ILECS, “ACS”). The ACS companies provide retail and wholesale wireline and wireless telecommunications, information, broadband, and other services to residential and business customers in the State of Alaska and beyond, using ACS’s intrastate and interstate facilities.

**1. *The record demonstrates the benefits of clearer, simpler rules.*** The sheer size of the record contained in the initial round of comments that the Commission received demonstrates the acute need for clear, elegant rules that minimize administrative burdens on contributors. The Commission and contributors alike have struggled, virtually since the time the current contribution methodology was put in place, to split the hairs necessary to apply the current too-specific rules to rapidly changing technologies services, and market demands. In today's world, it is virtually a feat of alchemy to distinguish interstate, end-user, telecommunications service revenues among the host of bundled, integrated functionalities that modern broadband, digital, packetized voice, data, and video offerings frequently encompass.

ACS echoes the comments of XO Communications that today's contribution system, turning as it does on fine-grained jurisdictional and service classification distinctions, has produced a growing backlog of requests for Commission guidance.<sup>2</sup> Compliance costs associated with today's system consume tremendous resources, a particular burden for smaller carriers that cannot marshal ranks of economists, engineers, attorneys, and accountants to engage in protracted analysis and perform the necessary calculations. Particularly where, as here, the Commission assesses such steep penalties for noncompliance, it is incumbent on the Commission to establish clear rules that contributors can follow.

**2. *The record demonstrates that the Commission should retain and simplify the current revenue-based methodology.*** The record reflects a host of commenters offering support for a simpler and more streamlined revenue-based contribution methodology that broadens the contribution base to spread contribution obligations in a more equitable and nondiscriminatory

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<sup>2</sup> XO Communications Comments at 12.

manner, while lowering the overall contribution burden on any one provider or service.<sup>3</sup>

Precisely this judgment underpins ACS's advocacy in this proceeding. By doing so, the Commission would reverse the slide in the revenue base by incorporating growing categories of services that have been supplanting those currently subject to assessment for a decade or more. ACS understands and shares these commenters' frustrations in trying to apply yesterday's antiquated revenue-based contribution methodology to today's suite of modern communications services. But, ACS continues to believe that, despite its shortcomings, a properly updated revenue-based methodology offers significant advantages over the alternatives.

Among other simplifications, the record reflects broad support for expanded use of safe harbors.<sup>4</sup> Reasonable and properly designed safe harbor allocators, such as the ones proposed by ACS and other commenters, streamline the revenue-based contribution methodology and, as discussed below, can ameliorate the jurisdictional issues inherent in the structure of Section 254(d).

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<sup>3</sup> E.g., US Cellular Comments at 31 ("A revenues-based contribution methodology, enhanced by the adoption of certain reforms by the Commission, would work equitably and efficiently in allocating contribution obligations."); USA Mobility Comments at 1 ("[T]he Commission should retain the revenue-based contribution methodology but improve it by broadening the base of assessable services and by clarifying and simplifying contribution and reporting requirements."); XO Communications Comments at 20 ("[T]he problem with the current USF contribution system is not the revenues-based assessment *per se*; rather, it is that growth of assessable revenues has not kept pace with the increasing need for USF funding."); Universal Service for America ("USA") Coalition Comments at 9 ("The problems with the current revenues-based contribution mechanism stem not from the concept, but rather the implementation."); Cincinnati Bell Comments at 8 ("[T]he advantage of having been thoroughly vetted over the years so that its shortcomings are known and the Commission may be able to correct them through small adjustments without replacing the entire system."); AARP Comments at 31 ("The use of a revenue-based contribution method continues to be the best approach to assess contribution.").

<sup>4</sup> See, e.g., US Cellular Comments at 38; Time Warner Cable Comments at 12; USTA Comments at 12; USA Coalition Comments at 7; Verizon Comments at 20-21.

As XO Communications, the USA Coalition, and others point out, numbers-based and connections-based methodologies offer no clear advantages over revenue.<sup>5</sup> Perhaps most tellingly, there is no consensus as to how the Commission should structure a contribution methodology based on numbers or connections or, indeed, which types of connections to assess. Although Verizon, AT&T, Comcast, and many others, offer support for number-based methodologies, such a methodology would fail to assess services that incorporate a telecommunications component without utilizing numbering resources. For this reason, ACS strongly disagrees with any assertion that a “numbers-based methodology . . . would eliminate the incentives that exist under the revenues-based approach for providers to move to services and technologies that are either exempt from contribution requirements or are subject to safe harbors.”<sup>6</sup> Such incentives are present in any system where substitutable services are subject to differing contribution requirements; indeed this is one of the fundamental reasons why ACS has advocated making the revenue contribution base as broad as possible.

Although AT&T renews its advocacy for its previously filed numbers-only or numbers-plus-connections approaches,<sup>7</sup> in virtually the next breath, AT&T offers additional alternatives, indicating that the Commission could allocate the aggregate contribution burden among broad categories, such as fixed location, mobile, and over-the-top providers based on, of all things, *relative shares of industry revenues*. AT&T then suggests that these categories could then be further sliced and diced into various subcategories reflecting types of services that are generally

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<sup>5</sup> XO Comments at 33-38; USA Coalition at 9.

<sup>6</sup> Comcast Comments at 25.

<sup>7</sup> AT&T Comments at 18-19.

recognized today, but that seem unlikely to stand the test of time any better than those upon which today's system rests.<sup>8</sup>

In this and similar ways, analysis of a numbers-based methodology inevitably turns to the issue of how to treat numbers that generate little or no voice traffic or even incremental revenue, such as those used for wireless family plans, or those utilized by non-voice devices, such as data tablets, gaming consoles, machine-to-machine connections, and the like. Revenue-based methodologies inherently correct for any perceived inequity, assessing low contributions on low-revenue services. Nor do they account for services that may use alternative numbering systems or, indeed, no numbers at all. For these reasons, ACS also disagrees with Verizon's assertion that, "a properly structured, numbers-based mechanism would treat all providers of competing services on the same basis, thereby promoting the Commission's objectives for an equitable, rational system."<sup>9</sup>

Connections-based methodologies fare no better. In tying itself to a tiered system of per-connection assessments, the Commission would create an indefinite obligation to revisit and maintain appropriate relationships between tiers. Further, the per-connection assessment amounts will inevitably be shaped by the Commission's judgment as to the revenue that a connection of a particular capacity generates, once again leading the Commission back to revenue considerations. Plus, as XO Communications points out, the industry is moving from services based on maximum connection speed, to those based on maximum data usage over a

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<sup>8</sup> AT&T Comments at 19.

<sup>9</sup> Verizon Comments at 46.

fixed period, such as one month.<sup>10</sup> Retail wireless data plans, for example, no longer focus on transmission speed, but offer the customer the ability to send or receive a given total amount of data each month.

Hybrid methodologies that rely on a combination of numbers and connections, of course, combine all the challenges of both systems.

***3. The Commission should eliminate the distinction between intrastate and interstate revenue for purposes of assessing universal service contributions.*** Many parties advocate reforming the current revenue system to broaden the revenue base to the greatest extent possible, and ACS heartily endorses this sentiment.<sup>11</sup> While relatively few commenters take on the jurisdictional issues directly, several commenters advocate reforms that would eliminate or reduce contributors' needs to assess jurisdictional identity in determining its contribution base. Cincinnati Bell, for example, even as it insists that the Commission lacks the authority to assess intrastate revenues directly, advocates for the Commission to establish a set of "fixed interstate allocators" for contributors to use in identifying their interstate revenues subject to assessment.<sup>12</sup>

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<sup>10</sup> XO Communications Comments at 36.

<sup>11</sup> See, e.g., USTA Comments at 8 (criticizing the obsolete "historical idea that services are either interstate or intrastate in nature, that providers can readily distinguish revenues associated with each jurisdiction, and that consumers purchase different, jurisdiction-based services"); USA Coalition Comments at 6 ("[T]he Commission should expand the contribution base to cover as many types of voice and data service providers as possible, and simplify its rules to ensure that service providers cannot gain a competitive advantage over each other, or avoid the universal service contribution obligations, by using regulatory distinctions with no relevance to the market."). While ACS agrees with USTA that a legislative clarification of the Commission's authority to assess contributions under Section 254(d) would be helpful, USTA Comments at 2, ACS believe that the Commission has adequate authority under existing law to assess total intrastate and interstate revenues, as discussed in its initial comments.

<sup>12</sup> Cincinnati Bell Comments at 11.

Similarly, Time Warner Cable offers qualified support for a revenue-based approach, “provided that it can be simplified and clarified” through, among other things, “the use of additional safe harbors or fixed jurisdictional allocations for specific categories of services.”<sup>13</sup>

As ACS explained in its initial comments, not only are jurisdictional separations for ILECs largely fixed today, but the mathematical result is indistinguishable from a Commission rule that would assess total revenues at a lower rate. While ACS, Cincinnati Bell, and Time Warner Cable take differing approaches to the underlying jurisdictional issues, ACS shares these commenters’ support for retaining and simplifying the current revenue-based methodology, and believes the net result of our respective proposals would be similar. Like safe harbors, the goal of fixed factor allocators is to simplify the current system; therefore ACS urges the Commission, if it adopts this approach, to adopt a single fixed factor that would apply across all services.

Verizon’s objections to a total revenues approach are specious. In its comments, Verizon objects that assessment of total revenues would place contributors at a competitive disadvantage vis-à-vis non-contributors that develop similar products.<sup>14</sup> ACS’s comments provide a ready solution: while the Commission should assess the gross revenues of a contributor, it should allow the contributor to exclude revenue from activities that are not subject to assessment, including those that involve no provision of telecommunications, and should simplify the administrative process of making this calculation by offering a safe harbor revenue exclusion to account for non-assessable wholesale and non-telecommunications revenues.<sup>15</sup> Similarly, while

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<sup>13</sup> Time Warner Cable Comments at 11-12.

<sup>14</sup> Verizon Comments at 43-44.

<sup>15</sup> ACS Comments at 20; see also USA Coalition Comments at 7 (advocating expanded use of realistic safe harbors).

Verizon argues that the Commission should not assess intrastate revenues because many states already assess intrastate revenues as part of state universal service programs,<sup>16</sup> it fails to articulate the harm that such “double taxation” might produce. Unlike the case of wholesale revenues, where assessment at both the wholesale and retail levels could leave resellers at a competitive disadvantage compared to facilities-based providers of comparable services, overlapping state and federal assessments would appear to leave all competitors within a given state on equal footing. Many states today have personal and corporate income tax regimes in place that overlap and coexist with federal tax law.

Nevertheless, if the Commission is concerned about this aspect of ACS’s proposal, it should permit contributors to deduct any explicit contributions to a state universal service mechanism from their federal assessable revenue base. This deduction should operate separately from any safe harbor exclusion, and could operate similarly to the deduction that exists in federal tax law permitting a federal deduction for state and local income tax payments.

**4. *The Commission should implement immediate administrative reforms to reduce compliance costs.*** There is widespread support in the record for reforms to simplify the administrative processes governing compliance with universal service contribution obligations. As such, even as longer-term reforms are being implemented, the Commission should adopt rule changes (a) to implement annual adjustment of the contribution factor and carrier filings;<sup>17</sup> and (b) continuing to permit contributors to place explicit recovery charges on customer bills.

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<sup>16</sup> Verizon Comments at 22.

<sup>17</sup> E.g., USTA Comments at 11; *see also* USA Coalition Comments at 3 (discussing administrative burden).



With respect to the move to annual adjustments of the contribution factor and reports of contributor revenue, these are common-sense changes that reduce compliance costs with minimal impact on the Commission's ability to ensure availability of necessary funding for universal service mechanisms.

With respect to line item recovery charges, ACS disagrees with NASUCA's contention that line item recovery charges on customer bills make competitive comparisons among services difficult.<sup>18</sup> Under a simplified and reformed revenues-based contribution methodology, as ACS advocates here, the level of these line item charges should decrease and become more uniform across substitutable services. Thus, the universal service recovery line item should have no meaningful impact on price comparisons among services.

ACS continues, however, to urge the Commission to clarify whether services it provides to governmental customers are subject to universal service assessments and, if so, the extent to which ACS is permitted to see recovery of such assessments from these customers.

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<sup>18</sup> NASUCA Comments at 22.

For the foregoing reasons, ACS urges the Commission to adopt long-delayed reform of the universal service contribution mechanism in accord with ACS's proposals offered in these proceedings.

Respectfully submitted,



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